United Nations CAT/C/AND/QPR/2

Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

Distr.: General
21 June 2018

Original: English
English, French and Spanish only

Committee against Torture

List of issues prior to submission of the second periodic report of Andorra*

Specific information on the implementation of articles 1–16 of the Convention, including with regard to the Committee's previous recommendations

Follow-up questions from the previous reporting cycle

1. In its previous concluding observations (see CAT/C/AND/CO/1, para. 24),[1] the Committee requested Andorra to provide further information regarding areas of particular concern identified by the Committee, namely fundamental legal safeguards, including access to a doctor of one's own choice for persons deprived of their liberty from the outset of deprivation of liberty; sensitizing and training law enforcement personnel and judicial officials about violence against women; and strictly monitoring and supervising the use of electrical discharge weapons (paras. 8, 13 (c) and 19). The Committee expresses its appreciation for the State party's reply concerning the information sought by the Committee, which was provided on 10 November 2014 (CAT/C/AND/CO/1/Add.1). In view of the substantive information provided, the Committee considers that the recommendations included in paragraphs 8, 13 (c) and 19 mentioned above have been partly implemented (see paras. 4, 8 and 23 of the present document).

Articles 1 and 4

2. With reference to the Committee's previous concluding observations (para. 6), please provide information on any steps taken to amend article 110 of the Criminal Code to include a definition of torture that covers all the elements contained in article 1 of the Convention. In particular, the definition should include the purpose of acts of torture, punishment of a person or a third person for suspected crimes, coercion, discrimination, complicity or participation in torture and mention of instigation by, or consent of, a person acting in an official capacity, since serious discrepancies between the Convention's definition and that incorporated into domestic law may create actual or potential loopholes for impunity.

3. With reference to the Committee's previous concluding observations (para. 7), please provide information on any steps taken to amend the Criminal Code to introduce appropriate penalties for the crimes of torture and genocide that go beyond 10 years of imprisonment and to ensure that prosecution and punishment for acts of torture are not subject to a statute of limitations, so that the crime of torture can be investigated, prosecuted and punished without risk of impunity.

* Adopted by the Committee at its sixty-third session (23 April–18 May 2018).

[1] Unless otherwise indicated, paragraph numbers in parentheses refer to the previous concluding observations adopted by the Committee.

Article 2[2]

4. With reference to the Committee's previous concluding observations (para. 8) and taking note of the information provided by the State party in its follow-up reply (CAT/C/AND/CO/1/Add.1, paras. 3–4), please provide updated information on effective measures adopted to guarantee that all detained persons are afforded in practice all fundamental legal safeguards from the outset of their deprivation of liberty, including the right to receive a medical examination by an independent doctor, if possible a doctor of their choice.

5. With reference to the Committee's previous concluding observations (para. 9), please provide information on any steps taken during the period under review to reduce the number of pretrial detainees and devise alternative, non-custodial measures, taking into account the United Nations Standard Minimum Rules for Non-custodial Measures (the Tokyo Rules).

6. With reference to the Committee's previous concluding observations (para. 10), please provide information on any steps taken to establish an independent mechanism to monitor action by the police and investigate allegations and complaints of ill-treatment by members of the police force and to ensure that law enforcement officials receive training on the absolute prohibition of torture and ill-treatment.

7. With reference to the Committee's previous concluding observations (para. 11), please provide information on any measures taken to prohibit and punish discrimination and incitement to violence against vulnerable groups,[3] including with regard to sexual orientation and in school settings, and ensure that all hate crimes are always investigated and prosecuted and the perpetrators convicted and punished. Please also provide information on steps taken to prevent and condemn hate speech during the period under review.

8. With reference to the Committee's previous concluding observations (para. 13), please provide updated information on:

(a) Any amendments to legislation ensuring that all forms of violence against women and children, including domestic and sexual violence and rape, are offences under the Criminal Code, and on any developments in relation to the bill mentioned in paragraph 12 of the State party's follow-up reply;

(b) Whether reports of domestic violence, including sexual violence and violence against children, are registered by the police and are promptly, impartially and effectively investigated and perpetrators prosecuted and punished in accordance with the gravity of their acts;

(c) Whether law enforcement personnel and judicial officials in the Public Prosecutor's Office have been trained in investigating and prosecuting cases of domestic violence and whether any awareness-raising campaigns have been conducted for the general public. Please also provide information about the status of the specialized investigation course for police officials mentioned in paragraph 7 of the State party's follow-up reply;

(d) Steps taken to ensure that victims of domestic violence, including sexual violence, benefit from protection,[4] including restraining orders for the perpetrators, and

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[2] The issues raised under article 2 could also touch on issues raised under other articles of the Convention, including article 16. As stated in paragraph 3 of the Committee's general comment No. 2 (2007) on the implementation of article 2 by States parties, the obligation to prevent torture in article 2 is wide-ranging. The obligations to prevent torture and other cruel, inhuman or degrading treatment or punishment under article 16 (1) are indivisible, interdependent and interrelated. The obligation to prevent such ill-treatment in practice overlaps with and is largely congruent with the obligation to prevent torture. In practice, the definitional threshold between ill-treatment and torture is often not clear. See also chapter V of the same general comment.

[3] See A/HRC/30/9, para. 83.9.

[4] Ibid., para. 83.8.

have access to medical and legal services, including psychosocial counselling, rehabilitation and safe and adequately funded shelters.

9. Please provide information on any steps taken to amend national legislation in order to decriminalize abortion under certain circumstances, such as pregnancies that are the result of rape.[5]

10. With reference to the Committee's previous concluding observations (para. 14), please provide updated information on:

(a) Any amendments to the Criminal Code specifically prohibiting trafficking in human beings as a criminal offence and extending criminal liability to legal persons, and prohibiting the trafficking and sale of children for all purposes,[6] and forced labour and sexual exploitation;[7]

(b) Steps taken to increase the protection of and provide redress to victims of trafficking, including legal, medical and psychological aid and rehabilitation; adequate shelters and assistance in reporting incidents of trafficking to the police; and on any plans to develop a national plan against human trafficking;[8]

(c) Any specialized training provided during the period under review to police, prosecutors and judges on the prevention, investigation, prosecution and punishment of acts of trafficking, and of any media campaigns aimed at informing the general public about the criminal nature of such acts;

(d) Any cases of trafficking in persons and related practices during the period under review and the results of investigations and prosecutions of such acts.

11. With reference to the Committee's previous concluding observations (para. 12), please provide information on any steps taken by the State party to establish an independent national institution for the promotion and protection of human rights, with an appropriate mandate and adequate financial and staffing resources, that is fully compliant with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles).[9]

Article 3

12. With reference to the Committee's previous concluding observations (para. 15), please provide information on any steps taken to provide for the granting of asylum and to create a procedure for the determination of refugee status for persons who could be recognized as refugees.[10] Please also provide information on any legal measures adopted during the period under review to ensure that persons for whom there are substantial grounds to believe that they would be in danger of being subjected to torture in another State are not expelled, extradited or returned (refoulé).

Articles 5–9

13. Please provide information on any new legislation or measures that have been adopted to implement article 5 of the Convention.

14. Please inform the Committee of any extradition treaties concluded with other States parties and indicate whether the offences referred to in article 4 of the Convention are included as extraditable offences in such treaties.

15. Please clarify the mutual judicial assistance treaties or agreements that the State party has entered into with other entities, such as countries, international tribunals or international institutions, and whether such treaties or agreements have led in practice to the

[5] Ibid., para. 84.26.
[6] Ibid., para. 84.39.
[7] Ibid., para. 84.40.
[8] Ibid., para. 84.42.
[9] Ibid., para. 84.32.
[10] Ibid., para. 84.74.

transfer of any evidence in connection with prosecutions concerning torture and ill-treatment. Please provide examples.

Article 10

16. With reference to the Committee's previous concluding observations (para. 16), please provide information on:

(a) Any training provided during the period under review for law enforcement personnel, prison staff, border guards, judges and prosecutors on the absolute prohibition of torture and other provisions of the Convention;

(b) Whether any methodologies have been adopted to assess the effectiveness and impact of such training;

(c) Whether steps have been taken to ensure that the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (the Istanbul Protocol) is an essential part of training for all medical professionals and other public officials involved in work with persons deprived of their liberty.

Article 11

17. With reference to the Committee's previous concluding observations (para. 17), please provide updated information on any steps taken to amend disciplinary regulations in order to implement only if necessary and reduce to as short a time as possible the duration of placement in solitary confinement as a disciplinary measure.

18. Please describe the procedures in place to ensure compliance with article 11 of the Convention. Please provide information on any interrogation rules, instructions, methods and practices and arrangements for custody, particularly those that may have been introduced since the consideration of the previous report, and indicate the frequency with which they are reviewed.

Articles 12–13

19. Please provide comprehensive statistical data, disaggregated by age, gender, ethnic or national origin and place of detention, on complaints, investigations, prosecutions, including disciplinary and criminal proceedings, and convictions and the criminal or disciplinary sanctions applied in any cases of torture and ill-treatment, trafficking and domestic and sexual violence, and on means of redress, including compensation and rehabilitation provided to victims. Please provide examples of relevant cases and/or judicial decisions.

Article 14

20. Please provide information on redress and compensation measures, including the means of rehabilitation ordered by the courts and actually provided to any victims of torture or their families since the consideration of the previous report. This should include the number of requests for compensation that have been made, the number granted and the amounts ordered and actually provided in each case. Please also provide information on any ongoing reparation programmes, including treatment of trauma and other forms of rehabilitation provided to victims of torture and ill-treatment, and on the material, human and budgetary resources allocated for their effective functioning.

Article 15

21. Please provide information on concrete measures taken to ensure respect, both in law and in practice, for the principle of inadmissibility of evidence obtained through torture. Please provide examples of any cases that have been dismissed by the courts owing to the introduction of evidence or testimony obtained through torture or ill-treatment.

Article 16

22. With reference to the Committee's previous concluding observations (para. 18), please provide updated information on whether prison staff continue to routinely subject prisoners to complete strip searches before and after family visits, which may amount to degrading treatment, instead of using less invasive methods.

23. With reference to the Committee's previous concluding observations (para. 19) and taking note of the information provided by the State party in its follow-up reply (CAT/C/AND/CO/1/Add.1, paras. 13–20), please provide information on any cases in which electrical discharge weapons, such as "tasers", have been used in closed settings such as prisons during the period under review, and how their use has been monitored.

24. With reference to the Committee's previous concluding observations (para. 20), please provide updated information on any review of national legislation to explicitly prohibit corporal punishment of children in all settings.

Other issues

25. Please provide updated information on the measures taken by the State party to respond to threats of terrorism. Please describe whether those measures have affected human rights safeguards in law and in practice and, if so, how they have affected them. Please also describe how the State party has ensured that those measures are compatible with its obligations under international law, especially the Convention. Furthermore, please indicate what training is given to law enforcement officers in this area; how many persons have been convicted under legislation adopted to combat terrorism; what legal safeguards and remedies are available in law and in practice to persons subjected to antiterrorism measures; and whether there have been complaints of the non-observance of international standards in applying measures to combat terrorism and, if so, what the outcome of the complaints was.

26. While taking note of the ratification by the State party of the Convention on the Rights of Persons with Disabilities and the Optional Protocol thereto, please indicate whether the State party plans to ratify the Optional Protocol to the Convention against Torture and other core United Nations human rights treaties[11] to which it is not yet a party.

General information on other measures and developments relating to the implementation of the Convention in the State party

27. Please provide detailed information on any other relevant legislative, administrative, judicial or other measures taken since the consideration of the previous report to implement the provisions of the Convention or the Committee's recommendations, including institutional developments, plans or programmes. Please indicate the resources allocated and statistical data. Please also provide any other information that the State party considers relevant.

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[11] Ibid., para. 74.